

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RODNEY STONEWALL JACKSON,

Defendant-Appellant.

UNPUBLISHED

May 15, 2012

No. 304307

Wayne Circuit Court

LC No. 10-009491-FH

Before: SERVITTO, P.J., and CAVANAGH and FORT HOOD, JJ.

PER CURIAM.

Defendant was convicted, following a jury trial, of unarmed robbery, MCL 750.530. He was sentenced, as an habitual offender, fourth offense, MCL 769.12, to 3 to 15 years' imprisonment. Defendant appeals as of right, and we affirm.

Defendant's conviction arises from the August 23, 2010, robbery of the victim, Lawrence Njuguna in Taylor, Michigan. On that day, two assailants attacked the victim at his apartment building. The assailants pinned him against the wall and punched him repeatedly. When the victim eventually collapsed, one of the assailants pinned him to the ground while the other continued to beat him. Eventually, the assailants stole the victim's keys and left the building. A passerby found the victim collapsed on the ground, and he was taken to the hospital by ambulance. When the victim returned to his apartment after his release from the hospital, he found that his apartment had been ransacked and appliances and electronics had been stolen, but the lock on the entry door was intact. The day after the robbery, the victim saw his assailants, his female neighbor and defendant, at his apartment building and called police. Defendant was arrested and convicted of unarmed robbery by a jury.

Defendant alleges that there was insufficient evidence of identification to support his conviction of unarmed robbery. We disagree.

A challenge to the sufficiency of the evidence is reviewed de novo. *People v Martin*, 271 Mich App 280, 340; 721 NW2d 815 (2006). When reviewing a claim of insufficient evidence, this Court reviews the record in a light most favorable to the prosecution to determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *In re Contempt of Henry*, 282 Mich App 656, 677; 765 NW2d 44 (2009). Appellate review of a challenge to the sufficiency of the evidence is deferential. *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000). The reviewing court must draw all

reasonable inferences and examine credibility issues in support of the jury verdict. *Id.* When assessing a challenge to the sufficiency of evidence, the trier of fact, not the appellate court, determines what inferences may be fairly drawn from the evidence and the weight to be accorded those inferences. *People v Hardiman*, 466 Mich 417, 428; 646 NW2d 158 (2002). This Court must not interfere with the jury's role as the sole judge of the facts when reviewing the evidence. *People v Meshell*, 265 Mich App 616, 619; 696 NW2d 754 (2005).

The elements of unarmed robbery are: (1) the felonious taking of another's property, (2) by force or violence or assault or putting in fear, when (3) the defendant is unarmed. *People v Harverson*, 291 Mich App 171, 177-178; 804 NW2d 757 (2010). In addition to the elements of the offense, the prosecution must also prove the identity of the defendant beyond a reasonable doubt. *People v Oliphant*, 399 Mich 472, 489; 250 NW2d 443 (1976). The credibility of identification testimony presents a question of fact for the jury. *People v Davis*, 241 Mich App 697, 700; 617 NW2d 381 (2000). Positive identification by a witness can be sufficient to support a conviction of a crime. *Id.*

There was sufficient evidence to establish defendant's identity as one of the assailants. The victim testified that when he went to retrieve his mail, he turned to find defendant "in his face." During the robbery, the victim was in close proximity to his assailants for approximately ten minutes. Ten minutes is a significant amount of time for the victim to have observed defendant. Shortly after the robbery, the victim provided a description of the unknown perpetrator to the police. The day after the robbery, the victim saw defendant at his apartment building, recognized defendant as one of his assailants, and called the police. Further, the victim identified defendant as one of his assailants at trial. Although defense counsel highlighted the inconsistencies between the description given by the victim at the hospital and defendant's features, the jury nonetheless convicted defendant as charged. While it is possible for inconsistencies in a witness's testimony to raise doubts about the credibility of a witness, a witness's credibility is a question for the jury, and any conflict in the evidence must be resolved in the prosecutor's favor. *People v McRunels*, 237 Mich App 168, 181; 603 NW2d 95 (1999). Therefore, the evidence, when viewed in a light most favorable to the prosecution, would justify a rational jury's finding that defendant was guilty of unarmed robbery.

Affirmed.

/s/ Deborah A. Servitto
/s/ Mark J. Cavanagh
/s/ Karen M. Fort Hood